

Memorandum

To : Honorable Jerome E. Horton, Chairman
Honorable Michelle Steel, Vice Chair
Honorable Betty T. Yee, First District
Senator George Runner (Ret.), Second District
Honorable John Chiang, Controller

Date: June 15, 2012

From : Jeffrey L. McGuire, Deputy Director
Sales and Use Tax Department



Subject : **A Report on Collection and Levy Procedures used by the Board of Equalization
Item 1 – Customer Service and Administration Efficiency Committee**

Phases of the Collection Process

There are two phases of the BOE's collection program. The first phase is voluntary compliance. This phase puts an emphasis on notifying taxpayers regarding their liability as well as educating them regarding their obligations. The second phase is summary collection action which includes filing of liens and levies in accordance with CPPM 753.200 and 757.000. This phase only occurs after attempts to seek voluntary payment have failed, and the taxpayers have not taken active steps to satisfy their liabilities.

Voluntary Compliance Phase

During this voluntary phase, taxpayers are contacted and asked to pay their liability both by notices sent through the mail and by telephone conversations initiated by collection staff. The initial notice includes information about BOE's Publication 54, *Tax Collection Procedures*, which informs the taxpayer about collection procedures and taxpayer rights. All taxpayers are provided two to four notices before accounts are referred to collectors. The number of notices is dependent upon various criteria, including liability amount. Accounts with the highest liability are sent at least two notices before the account is brought to the attention of a collector. Taxpayers with low liabilities are sent up to four notices before the account is brought to the attention of a collector. This maximizes the efficiency of collection staff by allowing the collection system to monitor accounts with lower balances so collectors can concentrate on the higher balance accounts.

After the notice process, accounts are referred to collectors who begin contacting the taxpayer through telephone calls. During these initial telephone contacts, collectors are expected to impress upon the taxpayer the seriousness of the need to pay immediately and educate the taxpayer on their obligations and the consequences for nonpayment. The phone calls continue as long as positive steps are being taken to clear the liability within a reasonable amount of time. There is no set timeframe how long each case remains in this phase, it is a judgment call by the collector based on the facts of each case.

Summary Collection Action Phase

If positive steps to satisfy the liability are not taken by the taxpayer, summary collection actions become necessary to obtain payment. Summary collection actions include liens, levies, wage garnishments, warrants for collection, license suspensions, and similar actions. The appropriate summary collection actions to be used are determined by collection staff after a review of the taxpayer's circumstances and compliance history. The decision to take summary collection action is not taken lightly and is never the first option for collection of liabilities. However, for some cases, these actions are required to bring the taxpayers into compliance.

Levy Procedures

Prior to the issuance of a Notice of Levy, BOE staff always attempt to gain voluntary compliance from the taxpayer. All notices previously sent include a statement advising that summary collection action will be taken if the liability is not resolved. Also, collectors provide additional information on potential collection action, such as levies, to taxpayers during their conversations in the voluntary compliance phase (listed above). However, if the taxpayer does not pay or make payment arrangements and summary collection action becomes necessary, the Notice of Levy is one of the most effective summary collection actions available to BOE staff. The Notice of Levy requires a financial institution (or other individual holding assets of the taxpayer) to place a hold on the taxpayer's assets and, unless a claim of exemption is filed within 10 days, send the funds and/or the completed Memorandum of Garnishee to the BOE. The Notice of Levy includes two copies, one that is sent to the entity being levied (typically a bank or credit union) and one copy that is sent to the taxpayer three to five days later. The taxpayer's copy of the Notice of Levy includes an information sheet and a list of exemptions that may apply. The taxpayer has ten days from the date of receipt of the levy to file for an exemption.

Conclusion

Voluntary compliance remains the goal throughout BOE's collection process and collectors seek to work collaboratively with taxpayers to educate them on their obligations, which benefit both the taxpayers and the state. Summary collection is pursued only when the BOE staff has exhausted all efforts in obtaining voluntary compliance.

JLM:sm

Attachments: Publication 54, *Tax Collection Procedures*
Compliance Policy and Procedure Manual Chapter 7

cc: Ms. Regina Evans-Jarrett
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